



**FOOTBALL
NSW**

**APPEALS TRIBUNAL OF FOOTBALL NSW
DETERMINATION IN THE FOLLOWING MATTER:**

Player/Official/Member/Association Member/Participant/Club	Arncliffe Aurora Football Club ("the Club") v Football NSW
Decision Appealed	Appeal from the determination of the General Purposes Tribunal of Football NSW – GPT 15/44 (the 'Determination')
Date of Decision Appealed	14 January 2016
The basis upon which the matter is before the Appeals Tribunal	Section 9.1(ii) and 9.2(e) of Football NSW Grievance and Disciplinary Regulations
Date of Hearing	Determined on the papers
Date of Determination	7 July 2016
Appeals Tribunal Members	Zali Steggall OAM, Chair Graham Turnbull SC Iain Rennie

A. INTRODUCTION

1. Football NSW has established this Appeal Tribunal pursuant to Section 9 of the Football NSW Grievance and Disciplinary Regulations 2014 ("Regulations").
2. The Appeal Tribunal ("AT") is responsible for hearing and determining appeals from the:

- (i) Disciplinary Committee pursuant to section 7.5 (Appealing a decision of the Disciplinary Committee) but subject to section 9.2 (Grounds of Appeal) of the Regulations;
 - (ii) General Purpose Tribunal pursuant to section 8.6 of the Regulations (Appealing a decision of a GPT) and 15.3 (Misconduct) but subject to section 9.2 (Grounds of Appeal) of the Regulations;
 - (iii) Association Appeals Committee but subject to section 9.2 (Grounds of Appeal) and section 9.5 (Appeals against a decision of an Association Appeals Committee) of the Regulations.
- 3. The AT makes determinations as set out in section 9.3 and 9.4 of the Regulations.
- B. DETERMINATION OF GPT**
- 4. The GPT issued a Final Determination on 14 January 2016 in respect to the matter of Football NSW v Arncliffe Aurora FC GPT 15/44, determining that:
 - a) The Club be and is suspended from participation in Football NSW tournaments, including Champion of Champions and State Cup, in 2016 and 2017 (“the **Suspension**”).
 - b) A two (2) year compliance and conduct bond of \$7,500 be and is placed on the Club (the “**Bond**”, such bond to be forfeited as a result of any Association, FNSW or Tribunal finding that the Club has fielded ineligible players or been guilty of false identification of players or officials, or that the Club’s players, officials or spectators have been guilty of violence and bringing the game into disrepute.
- 5. The Club’s Notice of Appeal specifies that the grounds of appeal are: ‘Severity, only where the decision of the Body imposed a sanction of at least:
 - iii) A fine of three thousand dollars (\$3,000) or more; or
 - v) Expulsion from a competition’.
- 6. However in its subsequent and more detailed Outline of Submissions, the Club sought ‘only to appeal the severity of the Decision, namely, the imposition of the Suspension (at [3])’. Accordingly the AT has not considered the severity of the Bond imposed on the Club.
- C. DECISION**
- 7. The AT determines that the appeal is dismissed.
- D. HEARING**
- 8. The appeal was determined in chambers on the papers.
- E. SUBMISSIONS**
- 9. The AT accepted and relied upon the separate documents submitted by the Club entitled ‘Outline of Submissions’ and ‘Club Reply to FNSW Submissions’, together with the ‘Football

NSW Submissions' and 'Football NSW – response to request of Tribunal', both documents submitted by Football NSW.

10. In addition the Tribunal had regard to the written material available to the G.P.T. including witness statements in various forms ranging from Police Statements to e-mails and a recorded phone call from an attendee at the match.
11. The Tribunal was also referred to newspaper accounts portraying the incident.
12. The conduct alleged was:

CHARGE 1: *During the Match, the Club played an ineligible Player. At the relevant time, the Player was subject to a three Fixture suspension imposed by St George Football Association on 22 August 2015 and had one Fixture remaining to be served. The Club was responsible for ensuring that the team fielded eligible Players.*

CHARGE 2: *During the Match, the Club played a Player under a false name. The Club was responsible for ensuring that the Team Sheet was correctly completed.*

CHARGE 3: *During the Match, the Club played a Player under a false name. The Club was responsible for ensuring that the Team Sheet was correctly completed.*

CHARGE 4: *During the Match, the Club played an ineligible Player. At the relevant time, the Player was subject to a one Fixture suspension imposed by Football NSW on 20 September 2015 for an R6 offence. The Club was responsible for ensuring that the team fielded eligible players.*

CHARGE 5: *The melee, instigated by members of the Club: (a) brought or may have brought the game of Football into Disrepute; and/or (b) was or may have been, in the opinion of Football NSW, prejudicial to the interests or reputation of either the game of Football in the State or to Football NSW.*

13. In summary, Club players serving suspension were played in a Champion of Champions match which ended in a Club instigated melee where an opposing player had his jaw broken and where criminal charges were preferred against Club players.
14. The Club submitted that any sanction against the Club (arising from the Charges before the GPT for determination) should not impact the entire Club (being all age groups) and should instead provide for specific deterrence by imposing a sanction such as compulsory attendance at a course(s) of education or rehabilitation.
15. FNSW submitted that the suspension determination was appropriate.

F. CONSIDERATION & COMMENT

16. The GPT set out in detail in paragraphs [29] to [34] principles underpinning the concept of Club liability for the actions of Members and Participants. In regard to the application of

these principles we note also that at paragraph [48] the GPT agreed with the Club's representative at the Hearing that 'the Club was liable for a sanction...given the misconduct of its players...'

17. No appeal has been made by the Club to the GPT's finding that the Club was guilty of the Charges (before the GPT) and found to be accountable and liable for those Charges where the Club Officials were found guilty of the Charges.
18. The Tribunal notes, as did the GPT, that at the time the Club was on notice of its obligations having been placed under a \$1,000 bond and been directed to provide 3 vested Officials at fixtures for the remainder of the season, and had been specifically directed to ensure Spectator compliance with suspensions it imposed. This sanction was imposed by a different G.P.T. in July 2015 only months before these charges arose.
19. In circumstances where the Club was again found guilty and liable, it is appropriate for any sanction or suspension to be imposed on the Club as a whole. Contrary to the Appellant's submissions there is a clear need for specific and general deterrence in this case. In all the circumstances it is not appropriate to impose the sanction or suspension on part only of the Club.
20. No submission was made that the GPT exceeded its jurisdiction in imposing the Suspension.
21. Due to the seriousness of the 5 Charges imposed on the Club, and the GPT's finding of guilt of the Club in respect to all 5 Charges, the AT rejects the appeal and finds that the Suspension is appropriate.


Zali Steggall OAM
Chair
Appeals Tribunal
Football NSW